

TOMMY HUDDLESTON

APRIL 3 (legislative day, MARCH 30), 1942.—Ordered to be printed

Mr. ELLENDER, from the Committee on Claims, submitted the following

REPORT

[To accompany H. R. 5596]

The Committee on Claims, to whom was referred the bill (H. R. 5596) for the relief of Tommy Huddleston, having considered the same, report favorably thereon with the recommendation that the bill do pass with the following amendment:

Page 2, line 3, after the word "amended", insert the following: "and supplemented by the Act of February 15, 1934 (48 Stat. 351), as amended,".

The facts are fully set forth in House Report No. 1871, Seventy-seventh Congress, second session, which is appended hereto and made a part of this report.

[H. Rept. No. 1871, 77th Cong., 2d sess.]

The Committee on Claims, to whom was referred the bill (H. R. 5596) for the relief of Tommy Huddleston, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Page 1, line 3, strike out the figure "17" and insert in lieu thereof the figure "15".

Page 1, line 8, after the word "was" insert "alleged to have been".

Page 1, line 11, after the date "1934" insert "injury consisting of a rupture".

The purpose of the proposed legislation is to waive in favor of Tommy Huddleston the bar of time limitations in sections 17 and 20 of the Compensation Act, requiring notice of injury and claim for compensation to be filed within a year of date of injury, and to leave the Commission free to determine the merits of his claim, if filed not later than 60 days after enactment of this bill, and to afford him such measure of relief as the facts, when established, may show him to be entitled to under the Federal Employees' Compensation Act of September 7, 1916.

STATEMENT OF FACTS

It appears that on May 19, 1933, Tommy Huddleston was employed by the Civilian Conservation Corps at Fort Oglethorpe, Ga., and was discharged on June 30, 1934, by reason of the expiration period of his enrollment. At the time he was inducted into the Corps, he was examined at Fort Oglethorpe by the medical authorities, and by the medical officer at Gatlinburg, Tenn., and found in sound

physical condition. Previous to the time he enlisted, and including most of the time during which he served, he was found physically fit, having never before received a rupture of any nature. He states that a few days before his discharge, under direction of the officers at the camp at Gatlinburg, he, with other members, was engaged in building a fish pool in what is now the Great Smoky National Park. While so engaged, he lifted a heavy rock, which caused a rupture in the vicinity of the navel. This injury caused him intense pain, and he immediately reported to Maj. W. A. Miller, the medical officer at said camp, for treatment. He states that he requested that he be sent to a hospital for an operation, and was informed by Major Miller that this was unnecessary, as the injury was slight, and that if he would keep same taped, it would, in the course of time, heal completely. He relied upon this advice of the doctor, and on the 30th day of June 1934, which was only about a week after the injury, was discharged from service. At that time, and for years later, he made no claim for compensation, relying upon the representations of Major Miller, which were made in the presence of a number of witnesses. Instead of healing, however, this injury has steadily grown worse, and since that time, and up to and including the present, he is absolutely unable to do ordinary work, and unable to earn a living. He has been informed by his own physician that this injury will never heal of its own accord.

The Employees' Compensation Commission states in letter to the chairman of this committee on October 27, 1941, that the record of Tommy Huddleston's physical examination at time of acceptance into the Corps makes no mention of hernia, but the same form at the time of discharge bears the following notation, signed by the camp surgeon: "No change in physical condition except umbilical hernia incurred in line of duty. Opening 1 cm. in diam."

Therefore, your committee feels that, with the record of his examination upon entry into the service of being in perfect physical condition, and at the time of discharge, reported as having hernia incurred in line of duty, favorable consideration is due this claim. Appended hereto is the report of the Employees' Compensation Commission, together with other pertinent evidence.

UNITED STATES EMPLOYEES' COMPENSATION COMMISSION,
Washington, October 27, 1941.

CHAIRMAN, COMMITTEE ON CLAIMS,
House of Representatives, Washington, D. C.

DEAR MR. CHAIRMAN: Under date of September 15, 1941, the Commission sent you a report on the bill (H. R. 5596) for the relief of Tommy Huddleston. At the time this report was made, the Commission had no information relative to any injury sustained by Mr. Huddleston while in the employ of the Civilian Conservation Corps.

On October 9, 1941, the Commission received a letter from the Secretary of War in which it is stated, among other things, that Mr. Huddleston was discharged from the Civilian Conservation Corps on June 30, 1934, by reason of the expiration period of his enrollment; that "The record of his physical examination at time of acceptance makes no mention of hernia but the same form at time of discharge shows the following notation, signed by the camp surgeon: 'No change in physical condition except umbilical hernia incurred in line of duty.'" A copy of the letter of October 8, 1941, from the Secretary of War to the Commission is enclosed herewith for the information of your committee.

The information furnished by the Secretary of War does not apparently make necessary any changes in the Commission's report of September 15, 1941.

Very truly yours,

JNO. J. KEEGAN, *Acting Chairman.*

UNITED STATES EMPLOYEES' COMPENSATION COMMISSION,
Washington, September 15, 1941.

CHAIRMAN, COMMITTEE ON CLAIMS,
House of Representatives, Washington, D. C.

DEAR MR. CHAIRMAN: Reference is made to your request for the Commission's report upon the bill (H. R. 5596) for the relief of Tommy Huddleston. The bill provides:

"That sections 17 and 20 of the Act entitled 'An Act to provide compensation for the employees of the United States, suffering injuries while in the performance of their duties, and for other purposes,' approved September 7, 1916, as amended (U. S. C., 1934 ed., title 5, secs. 767 and 770), are hereby waived in favor of

Tommy Huddleston, who was injured while in the performance of his duties as an employee of the Civilian Conservation Corps, near Gatlinburg, Tennessee, on or about June 23, 1934, and his claim for compensation is authorized to be considered and acted upon under the remaining provisions of such Act, as amended, if he files such claim with the United States Employees' Compensation Commission not later than sixty days after the date of enactment of this Act.

"Sec. 2. The monthly compensation which the said Tommy Huddleston may be entitled to receive by reason of the enactment of this Act shall commence on the first day of the month during which this Act is enacted."

The Commission has no record of having received from Tommy Huddleston a claim for compensation, nor is there any information in the files of the Commission relative to any injury or disability sustained by him while in the employ of the Civilian Conservation Corps near Gatlinburg, Tenn., on or about June 23, 1934, as indicated in the bill, or otherwise.

The proposed measure is apparently designed merely to waive in favor of Tommy Huddleston the bar of the time limitations in sections 17 and 20 of the Compensation Act, requiring notice of injury and claim for compensation to be filed within 1 year from the date of injury, and to leave the Commission free to determine the merits of Mr. Huddleston's claim, if filed not later than 60 days after the enactment of the bill, and to afford him such measure of relief as the facts, when established, may show him to be entitled to under the Federal Employees' Compensation Act of September 7, 1916. It may be pointed out that the limitation provisions in the compensation law are contained in sections 15 to 20, inclusive. If the bill is to be favorably considered, it is suggested that the reference to "sections 17 and 20" in the bill be changed to read "sections 15 to 20, inclusive."

In thus viewing the bill, the Commission interprets the expression "who was injured in the performance of his duties," in lines 8 and 9 on page 1 of the bill, as descriptive only and as serving merely to identify the alleged injury. As, however, it has sometimes been contended that similar language constituted a legislative determination of the fact of injury in performance of duty and precluded the Commission from determining the facts relative thereto, it is suggested that after the word "was," in line 8 of page 1 of the bill, there be inserted the words "alleged to have been."

It is noted that the bill contains no reference to the nature of the injury on account of which it proposes to extend relief. Such reference is customary and it is suggested that it be added for the purpose of the record, and for identification of the case.

It is noted that the bill refers only to the Federal Employees' Compensation Act "approved September 7, 1916, as amended," and authorizes the claim for compensation "to be considered and acted upon under the remaining provisions of such act, as amended." If Mr. Huddleston was an enrollee or nonadministrative employee of the Civilian Conservation Corps, the bill, if enacted, should specifically limit any benefits that might be granted thereunder to those provided for in cases of such enrollees so as to make construction of the measure unnecessary. This may be accomplished by adding the words "and supplemented by the Act of February 15, 1934 (48 Stat. 351), as amended," after the word "amended" in line 1, page 2, of the bill.

In view of the foregoing, the Commission makes no recommendation as to the advisability of the enactment of the bill, H. R. 5596.

Very truly yours,

JOHN M. MORIN, *Acting Chairman.*

STATE OF TENNESSEE,
Knox County:

Personally appeared before me the undersigned authority, a notary public in and for the aforementioned county and State, Tommy Huddleston, who upon being duly sworn, makes oath to the following statement:

My name is Tommy Huddleston, and I am 27 years old and living in Knox County, Tenn. I am married and have two minor children in addition to my wife, who are entirely dependent upon me for support. At the present, due to physical disability, I am unable to work, except for an occasional odd job. I am the same Tommy Huddleston who enlisted in the Civilian Conservation Corps on May 19, 1933, at Fort Oglethorpe, Ga., and was discharged at Gatlinburg Tenn., on the 30th day of June 1934. My camp number while I was serving was No. 1459. When I enlisted in the said Civilian Conservation Corps, I was in sound physical condition, having been examined at Fort Oglethorpe by the medical

authorities and having also been examined by the medical officer at Gatlinburg, Tenn., where I was stationed. Previous to the time I enlisted and including most of the time during which I served, I was found physically fit, having never before received a rupture of any nature. Only a few days before my discharge under direction of the officers at the camp at Gatlinburg, I, with other members, was engaged in building a fish pool in what is now the Great Smoky National Park. While so engaged, I lifted a heavy rock, which caused a rupture in the vicinity of my navel.

This injury caused me intense pain and I immediately reported to Maj. W. A. Miller, the medical officer at said camp for treatment. I requested that I be sent to a hospital for an operation, but I was informed by the said camp officer that this was unnecessary, as the injury was slight and that if I would keep same taped it would in the course of time heal completely. I relied upon this advice of the doctor and on the 30th day of June 1934, which was only about a week after my injury, I was discharged from service. At that time, and for years later, I made no claim for compensation, relying upon the representations of this doctor which were made in the presence of a number of witnesses, including my commanding officer, Capt. Neil A. Reynolds. Instead of healing, this injury has steadily grown worse and since said time, and up to and including the present, I am absolutely unable to do ordinary work and unable to earn my living. I have now been informed by my own physician that this injury will never heal of its own accord.

I hereby make affidavit that the sole reason of my failure to make a claim in this case was because of my having been misled by the statement that my injury would in the future heal of its own accord.

TOMMY HUDDLESTON.

Sworn to and subscribed before me this 23d day of June 1941.

[SEAL]

BEN R. WINICK, *Notary Public.*

STATE OF TENNESSEE,

County of Knox, ss:

Personally appeared before me the undersigned authority, a notary public in and for said county and State, Neil A. Reynolds who, upon being duly sworn, makes oath to the following statement:

My name is Neil A. Reynolds, I am 52 years old and at present a major in the Reserve Corps of the United States Army. I was commanding officer in connection with the Civilian Conservation Corps camp at Gatlinburg, Tenn., from October 5, 1933, to September 30, 1934. While I was in command of said camp, Tommy Huddleston was a member of the Corps under my command, having been enrolled May 19, 1933, and served until June 30, 1934, at which time I issued him a discharge.

Approximately 1 week before the time of his discharge the said Huddleston was at work at the camp ground near the Civilian Conservation Corps camp at Gatlinburg, and in lifting certain heavy objects he received a rupture in the vicinity of the navel, which he showed to me very shortly after his injury. This injury appeared to me to protrude about three-eighths of an inch and was about the size of the end of a man's finger. I was present when he was examined by the camp surgeon, Major Miller, whose home address is Araby, Ga. The doctor informed him, as well as others present, that said injury was only of a minor nature and that he could expect it to heal without further medical treatment. I, believing the doctor's opinion to be correct, after the said Huddleston's time expired, which was within a few days, I issued his discharge supposing that the injury would heal according to the medical doctor's statement. At the time of his injury the doctor advised the said Tommy Huddleston to keep a pad taped over this injury. I did not see the said Tommy Huddleston for approximately 3 or 4 months after the date of his discharge, at which time I inquired of the condition of his injury. He explained to me that the said injury had not improved. It is my earnest opinion that the said Tommy Huddleston relied entirely upon the statement of the camp doctor and that because of his being advised that the injury would heal, he neglected to file claim for compensation before the statute of limitations had expired.

NEIL A. REYNOLDS.

Sworn to and subscribed before me this 11th day of March 1941.

[SEAL]

MAX MOSKOWITZ, *Notary Public.*

My commission expires 15th day of July 1941.

ANNISTON, ALA., *May 19, 1941.*

This is to certify that the undersigned was camp surgeon at No. 1459, Gatlinburg, Tenn., when Tommy Huddleston was discharged from the Civilian Conservation Corps.

I do not recall this specific incident of umbilical hernia at the time of discharge, but if he had a slight umbilical hernia I probably told him that if he wore a compress over hernia the opening would close, as it had just recently occurred.

I examined Huddleston this date, and he has an umbilical hernia.

W. A. MILLER, M. D.

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